

LETTER

FROM THE

SECRETARY OF THE TREASURY,

TRANSMITTING

A REPORT OF THE FIRST COMPTROLLER OF THE TREASURY,

UPON THE SUBJECT OF COLLECTING

Tonnage Duties

On Boats employed in transportation on the Canals

IN THE STATE OF NEW YORK

DECEMBER 15, 1824.

Read, and referred to the Committee on Commerce, with instructions to inquire into the expediency of so amending the acts of Congress regulating the commerce of the United States, and imposing duties on tonnage, that they shall not be construed to extend to boats employed *exclusively* in transportation on the interior canals of the respective states.

WASHINGTON :

PRINTED BY GALES & SEATON.

1824.

AVERY ARCHITECTURAL AND FINE ARTS LIBRARY

GIFT OF SEYMOUR B. DURST OLD YORK LIBRARY

TREASURY DEPARTMENT,

December 14, 1824.

SIR: In obedience to a resolution of the House of Representatives, of the 8th instant, I have the honor to submit a report from the First Comptroller of the Treasury, which, with the correspondence accompanying it, contains the information required.

I remain, with respect,

Your most obedient servant,

WM. H. CRAWFORD,

HON. HENRY CLAY,

Speaker of the House of Representatives.

CLASSICS
HE
395
.N77
V55
18249

TREASURY DEPARTMENT,
Comptroller's Office, 9th December, 1824.

SIR: In compliance with the resolution of the House of Representatives, of the 8th instant, directing that the Secretary of the Treasury Department communicate to that House copies of any instructions which had been issued to the Collectors of the Customs, or any of them, within the state of New York, relative to the collection of tonnage duties on boats employed in transportation on the canals in that state; and, also, any information which might exist in that Department relative to the execution of such instructions, I have the honor to enclose, herewith, the following documents, viz:

1. Copy of a letter from J. Hawley, collector for the district of Genessee, dated 29th June, 1824.

2. Copy of the answer of this Department, dated 16th July, 1824; together with copies of the documents alluded to in, and which accompanied, that answer.

3. Extract of a letter from this Department to Collector Sage, dated 16th October, 1824.

In relation to the execution of the law, conformably to the construction given to it by this Department, I am in possession of no other information than that contained in a letter received from Peter Saily, collector for the district of Champlain, under date of the 9th September, 1824, an extract of which accompanies this, numbered 4. According to that extract, it appears that the law had only been partially put in force by him, having, up to that day, collected no more than \$20 40, being the tonnage duties on ten boats.

The resolution of the House of Representatives is returned herewith.

With considerations of high respect,

I have the honor to be,

Your obedient servant,

JOS. ANDERSON, *Comptroller.*

Hon. WM. H. CRAWFORD.

No. 1.

Copy of a letter from Jesse Hawley, Esq. Collector of the district of Genessee, N. Y. to the Comptroller of the Treasury.

ROCHESTER, June 29, 1824.

SIR: The conflict between the steam boats on the North river, in this state, for business and monopoly, seems to have elicited the idea that the revenue and navigation laws of the United States broadly

comprehends all marine and water vehicles for the conveyance of merchandise, over five tons, by whatever means they may be propelled, or whatever channels of water they may pursue, and alike includes the boats navigating the waters of the New York canal, although the canal itself is an artificial work—State's property and jurisdiction—and an interior communication.

Be pleased to give me your construction of the law of 18th February, 1793, vol. 168th page, as being applicable to these canal boats, with instructions how to administer it.

I am, very respectfully, yours. &c.

J. HAWLEY.

The Hon. JOSEPH ANDERSON.

No. 2.

Copy of Comptroller's answer to Collector Hawley.

TREASURY DEPARTMENT.

Comptroller's Office, July 16, 1824.

SIR: I have received your letter of the 29th ultimo, requesting the opinion of this Department, whether the act for enrolling and licensing vessels, passed the 18th February, 1793, is applicable to the canal boats, over five tons burthen, employed on the New York canal.

This subject having been submitted to the consideration of this Department, by the Honorable Henry C. Martindale and Stephen Van Rensselaer, an answer was given to them, under date of the 6th April last, a copy of which is enclosed, for your information and government.

It may be proper to add, that one of the gentlemen above named, after receiving the answer alluded to, submitted a resolution to Congress, with a view of having canal boats exempted from the operation of the coasting act, which resolution was referred to the Committee on Commerce, whose report on the subject is noticed in the National Intelligencer of the 22d April, 1824, in the following words:

“ House of Representatives.

“ Mr. Newton, from the Committee on Commerce, made a report against amending the law, so as to admit vessels to navigate canals without enrolment or license, or payment of tonnage duties; in which the House concurred.”

Respectfully,

JOS. ANDERSON, *Compt.*

J. HAWLEY, Esq. *Collector. Genessee, N. Y.*

Copy of Comptroller's letter to the Hon. H. C. Martindale, and Stephen Van Rensselaer.

TREASURY DEPARTMENT,

Comptroller's Office, 6th April, 1824.

Gentlemen: The Secretary of the Treasury has referred to me your joint letter to him of the 2d inst. wherein you state that you had been informed that the Collector of the district of Champlain, in the state of New York, had recently issued a notification requiring the owners of canal boats to take licenses to navigate them as for coasting vessels, and ask whether such notification had been issued in pursuance of instructions from the Treasury Department: and, if not, whether instructions from the Department to the collector of that district might not obviate the necessity of so modifying the law as to exempt canal boats, (which it could never have intended to have included,) from the inconvenience and embarrassments of its provisions.

In reply, I have to observe that, from the enclosed copy of a letter received from the collector for the district of Champlain, dated the 13th of January last, and the answer of this Department, dated the 29th ultimo, it will be perceived that, although no express opinion is given, (in answering the questions propounded by the collector,) whether boats employed in the transportation of goods on canals are subject to the operation of the act of 18th February, 1793, for enrolling and licensing vessels; yet, as the inference is to be drawn from that answer, that such vessels are so liable, it may be proper to state the views of this Department on the subject.

In the 6th section of the act referred to, there is a very general clause requiring all vessels of five tons and upwards, *trading between district and district, or between different places in the same district*, whether laden with domestic or foreign goods, to be licensed, on pain, in default thereof, of being subjected to certain disabilities and penalties.

To that general clause, as to licensing vessels, there are no other exceptions than those contained in the 37th section of the act, in the following words:

“That nothing in this act shall be construed to extend to any boat or lighter, not being masted; or, if masted, and not decked, employed in the harbor of any town or city.”

Before granting a license to any vessel, a tonnage duty at the rate of six cents per ton per annum, is to be paid; but, by the 8th section of an act, passed the 1st of May, 1802, (which was recognized as being in force by the 5th section of the navigation act of the 1st of March, 1817,) an exception is made as to the payment of tonnage duty on any boat, flat, raft, or other vessel of fifty tons and under, wholly employed in carrying on inland trade in *certain specified districts*.

This exception as to the payment of tonnage duty in the case of such boats, flats, or other vessels so employed in *certain districts*, shews that before the exception was made, they were considered to be liable to

tonnage duties, and, if so liable, of course, subject to the general operation of the act for enrolling and licensing vessels before referred to.

On the question being submitted by the collector at Newport, Rhode Island—whether *ferry-boats* of more than five tons burthen were required to be licensed, Mr. Comptroller Wolcott decided that they were, unless they were embraced in the exception in the 37th section of that act.

A copy of his answer to the collector, dated the 18th of June, 1793, is enclosed herewith.

In a case in which the question was submitted by the collector at Philadelphia, whether vessels not decked, and above five tons burthen, sailing from one part of that district to another part of the same, were subject to the operation of the coasting act, Mr. Comptroller Duvall decided that they were.

A copy of his decision is also enclosed, herewith, being contained in a letter addressed by him to Mr. Gallatin, then Secretary of the Treasury, dated the 15th of February, 1803.

The last mentioned decision has since been applied to all analogous cases in all the districts, with the exception as to the payment of tonnage duties in the case of the vessels embraced in the exemption in the 8th section of the act of 1st May, 1802, before referred to.

According to these decisions, the boats employed in the transportation of goods on the canal between the district of Champlain and the district of New York, would be liable to the payment of tonnage duties, and to the operation of the act of the 18th February, 1793, for enrolling and licensing vessels.

If it should be considered reasonable and proper to make an exception in those respects, in favor of the boats above five tons burthen, employed on canals, it is respectfully considered that a special provision therefor, by the Legislature, will be necessary.

With great respect,

I have the honor to be,

Your obedient servant,

JOS. ANDERSON, *Comptroller*.

HON. HENRY C. MARTINDALE and

STEPHEN VAN RENSSELAER, *Congress*.

Copy of Comptroller Wolcott's letter to Collector Ellery, dated 18th June, 1793.

TREASURY DEPARTMENT,

Comptroller's Office, 18th June, 1793.

SIR: Your favor of the 3d instant has been received. There is nothing in the law to exempt *ferry boats*, of more than five tons burthen, from being licensed, unless such boats are of the description mentioned in the 37th section, and are employed in the harbor of a town or

city. That it was the design of the law, that *ferry boats* should, in certain cases, be licensed, clearly appears from the 12th section.

I am, &c.

Your obedient servant,

OLIVER WOLCOTT, *Comptroller.*

WILLIAM ELLERY, Esq.

Collector, Newport, Rhode Island.

Copy of Comptroller Duvall's letter to A. Gallatin, Esq. Secretary of the Treasury, dated the 15th February, 1808.

TREASURY DEPARTMENT,

Comptroller's Office, 15th February, 1808.

SIR: My opinion on the case, stated by the Collector at Philadelphia, is now submitted.

The question is, whether vessels, not decked, and above five tons, sailing from one part of a district to another part of the same district, ought to be licensed?

This question depends upon a correct construction of the 6th and 57th sections of the coasting act.

It appears to me that, by the section first mentioned, all vessels of five tons, and upwards, are subject to the operation of the coasting act, unless they are embraced by the saving clause contained in the 37th section, which is in these words: "That nothing in this act shall be construed to extend to any boat or lighter not being masted, or, if masted, and not decked, employed in the harbor of any town or city." It does not appear that the vessel, which occasioned the letter of the collector, is thus *employed*, but that she is employed to go from one place in a district to another place in the same district. I am of opinion, therefore, that this vessel is subject to the operation of the coasting act.

If the owner of the vessel shall refuse or neglect to take out a license, she will be subject, in certain cases, to the payment of foreign fees and tonnage; and, in others, to forfeiture, according to the provisions of the 6th section before mentioned.

The foregoing may be considered as an answer, also, to the case submitted by Mr. Sloan.

I have the honor to be,

Your obedient servant,

G. DUVALL, *Comptroller.*

ALBERT GALLATIN, Esq.

Secretary of the Treasury of the U. S.

No. 3.

Extract of a letter from the Comptroller of the Treasury, dated the 16th October, 1824, to Nathan Sage, Collector for the District of Oswego, in reply to a letter received from his deputy.

"He also states that the determination made by the Collector of Genessee, to compel canal boats to take out licenses, had produced a great excitement against revenue officers, from Buffalo to Albany.

"I regret that what has been considered a correct exposition of the laws, should have produced the effect stated, and I can now only say that the difficulties presented by this case, will receive further consideration, and that the most advisable course to be pursued by the Government, under the existing state of it, will be adopted, of which the Collectors will be duly informed.

"There is no doubt but that an application will be made to Congress at their next session, for some modification of the laws upon this subject; and it is highly probable that it may succeed."

No. 4.

Extract of a letter from Peter Saily, Collector, to the Comptroller of the Treasury, dated Collector's Office, District of Champlain, Plattsburg, 9th September, 1824.

"In the attempt of putting the coasting act in force, as relates to the navigation of vessels on the Champlain canal, from this district into the district of New York, I have several times sent licenses for enrolled vessels, to the deputy Collector at White Hall, on his application in behalf of owners and masters of canal boats, and also the bonds and oaths required by the act to be executed and taken at that place; in several instances the tonnage duty was not paid at the time the licenses were delivered, and could not be obtained afterwards, in consequence of which, I have refused to enrol vessels, and to grant licenses, unless the tonnage duty was previously paid. About 22 vessels subject to the tonnage duty, have been enrolled, but on 10 boats only, has the duty been paid, to an amount of \$20 40, to this day."